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FISCAL IMPACT STATEMENT

LS 7190

BILL NUMBER: HB 1526

NOTE PREPARED: Jan 11, 2009

BILL AMENDED:

SUBJECT: Physician Ownership of Certain Entities.

FIRST AUTHOR: Rep. Brown C

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: This bill requires the State Health Commissioner to designate a hospital as a specialty hospital or a nonspecialty hospital upon issuance or renewal of a hospital's license. The bill specifies the procedure a hospital must follow to change the hospital's designation.

The bill requires ambulatory outpatient surgical centers (ASC) to report specified information to the Indiana State Department of Health (ISDH). The bill also requires the ISDH to publish an annual consumer guide to ambulatory outpatient surgical centers.

The bill prohibits a physician with an ownership interest in a specialty hospital or an ambulatory outpatient surgical center from making certain patient referrals to the hospital or center.

It also makes a technical correction.

Effective Date: July 1, 2009.

Explanation of State Expenditures: This bill has three major provisions: (1) the ISDH is required to promulgate rules regarding specialty license designation and issue licenses accordingly; (2) the ISDH is required to publish an annual consumer guide to outpatient surgical centers and to collect additional data from ASCs; and (3) the bill prohibits a physician from referring a patient to an entity in which the physician or a family member of the physician has an ownership interest.

(1) *Specialty Hospital Designation:* The ISDH is required to promulgate rules regarding licensure and designation of specialty hospitals. The bill defines a specialty hospital as a facility that makes available a

range of services that are restricted to a defined age or gender group or a range of medical services appropriate for the diagnosis, care, or treatment of specific categories of medical or psychiatric illnesses, conditions, injuries, or disorders. The ISDH currently reviews license applications and renewals for hospitals. (The FSSA issues licenses for psychiatric hospitals.) As of December 18, 2008, the ISDH included 166 licensed hospitals in the state directory. The 166 facilities are further classified as follows: 23 psychiatric hospitals, 6 rehabilitation hospitals, 12 long-term hospitals, 35 critical access hospitals, and 90 short-term hospitals.

The bill provides that if a hospital begins operating as a specialty hospital prior to ISDH designation as such, the hospital is subject to ISDH action. The ISDH may deny the renewal of the hospital's license, revoke the license, suspend the license, or impose a civil penalty not to exceed \$10,000. The ISDH should be able to adopt rules for the specialty hospital designation program within the current level of resources available. The cost of administering the specialty hospital designation program is unknown. However, given that the ISDH currently licenses hospitals in general, any additional costs to designate a hospital as a specialty hospital are expected to be minimal. Penalty revenues would likely be minimal and would be contingent upon the number of hospitals found to be in violation of this provision and the level of any penalties assessed by the ISDH.

(2) *Consumer Guide to Outpatient Ambulatory Surgical Centers*: The ISDH is required to compile specified data from ambulatory surgery centers (ASC) and report to the General Assembly each year. The bill requires ASCs to provide the ISDH data regarding financial matters, education efforts, diagnosis, surgical procedure data, patient demographic data, and payment information for the report. The ISDH may require additional resources to collect and compile the required statistics. The ISDH currently collects required hospital data with a web-based application. The level of resources needed to collect and compile the ASC data would depend on administrative actions.

The bill also requires the ISDH to prepare a consumer guide to outpatient ambulatory surgical centers for public distribution. The ISDH currently includes a consumer guide for ASCs on its website. The guide is similar to the hospital consumer guide that is also on the ISDH website. Current law requires the ISDH to make copies of these consumer guides available to the public at the ISDH's actual cost.

(3) *Self-referral Prohibition*: This bill prohibits a physician from referring a patient to a facility in which the physician or a family member has a financial interest. This portion of the bill includes a penalty provision for a physician or ASC that knowingly violates this prohibition. Violation of this provision is subject to a \$15,000 civil penalty for each service billed. In addition, a physician is subject to disciplinary action by the Medical Licensing Board, and an ASC is subject to disciplinary action by the ISDH. Any revenue associated with the violation of the prohibition would depend on the number of physicians of ASC facilities found to be in violation and the amount of any penalties assessed by the ISDH or the Medical Licensing Board.

Background Information on Ambulatory Surgical Centers: There were 138 ASCs in Indiana in CY 2007. (In 1999 there were 87 surgical centers in the state.) Ambulatory surgery centers perform routine surgical procedures that do not require full hospital amenities. Some ASCs specialize in performing certain procedures. The two most common surgical procedure groups reported in ASCs for 2007 were *digestive system* (144,504 procedures) and *eye and ocular* (80,604 procedures). There were 589,544 procedures performed at ASCs in 2007.

Explanation of State Revenues: See *Explanation of State Expenditures*.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: ISDH; Indiana Professional Licensing Agency, Medical Licensing Board.

Local Agencies Affected: County hospitals.

Information Sources: *Ambulatory Surgical Centers' Utilization Report, Indiana 2007*, State Department of Health website; *2008 Ambulatory Surgical Center Consumer Reports*, ISDH website.

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